

It is well settled that for claims to be held unpatentable under 35 U.S.C. Section 102, the claimed subject matter must be identically disclosed or described by a single reference. There must be no differences between that which is claimed and the disclosure of the reference. In re Kalm, 154 U.S.P.Q. 10, 12 (CCPA 1967). Anticipation requires the presence in the reference of each and every element of the claimed invention arranged as in the claim. Lindemann Maschinenfabrik GMBH v. American Hoist and Derrick Co., et al., 221 U.S.P.Q. 481, 485, (Fed. Cir. 1984). The reference must "clearly and unequivocally" disclose and describe that which is claimed. In re Arkley, 172 U.S.P.Q. 524, 526 (CCPA 1972). Se also RCA Corp. v. Applied Digital Data Systems, Inc., et al., 221 U.S.P.Q. 385, 292 (Fed. Cir. 1984). The cited reference, Burnham, does not meet these requirements.

Burnham does not anticipate the present invention for three reasons. As described in detail below, Burnham's pecan huller is (a) structurally different than applicant's corner cutter; (b) functionally different than applicant's corner cutter; and (c) non-analogous art.

Claim 6 has been amended to recite that the cutter has arcuate first and second blade edges, which are arcuate as viewed from the top plan form view of the cutter body. The present invention provides a device wherein the cutting blades for a convex corner cutter are arcuate on a plane looking down on the cutting blade and also vary in disposition on a plane looking forward on the cutting blade, as seen in Fig. 10. This is not shown in Burnham.

Structurally, the cutting edges of Burnham's pecan huller are not curved in two dimensions. Additionally, Burnham teaches two blades which would tend to intercept; one blade termed a groover and a cutter that is on the end of jaw 12 and a second blade 10 on overhanging jaw 8. Thus, Burnham's pecan huller varies and curves in only one dimension and does not have the same structural relationship of the parts as applicant's corner cutter, which has blades in registration with each other and which vary and curve in at least one dimension and vary in disposition in another dimension.

As shown in Fig. 2 of Burnham, the shapes of the upper jaw 12 and the lower jaw 8 are not similar. The surface of the upper jaw 12 raises at a point 11 whereas the surface of the lower jaw 8, referred to as an "overhanging jaw", is not meant to meet directly or be in registration with the upper jaw 12. The cutting edges of upper jaw 12 and lower (or overhanging) jaw 8 are not in registration with each other and are not of the same shape as viewed from the top view. Because of these distinctions, the pecan huller of Burnham could never function and was not intended as a device to cut a hard brittle material, but rather as a device to shell nuts. There is no way the teachings of the secondary references could be incorporated into Burnham's device to make the device suitable as a corner cutter as taught by the present invention.

Functionally, Burnham's pecan huller does not anticipate applicant's corner cutter as it functions in a totally different way. Burnham's pecan huller could not be used to cut glass or brick materials. It could only be used for its purpose, namely, shelling pecans. Burnham was never intended as a corner cutter and could not function as such. Burnham is not intended to cut corners because it does not have the arcuate curve in the plane of cutting. It just has a curve in the face of contact of the jaws to allow for a pecan to be held in the jaws, but the cutting surface does not curve for the purpose of enabling a cut to be made on a curved line around a corner, as in the present invention.

For these reasons, claims 6, as amended, and dependent claims 7-9, 11, 12, 15 and 17 are not anticipated by Burnham.

Claim 10 is rejected under 35 U.S.C. 103(a) as being obvious over Burnham in view of Schwartz. Claim 13 was rejected under 35 U.S.C. 103(a) as being obvious over Burnham in view of Berg. Claim 14 was rejected under 35 U.S.C. 103(a) as being obvious over Burnham in view of Welborn. Claim 17 was rejected under 35 U.S.C. 103(a) as being obvious over Burnham.

At the outset, it is apparent that the shortcomings of the primary Burnham reference are necessarily inherent in the further joint consideration of Burnham in view of the secondary references.

Even when considered in combination, it is apparent that the combination of any one or all of Schwartz, Berg, or Welborn with Burnham would not provide the requisite teaching or suggestion to one skilled in the art required to produce applicant's corner cutter. No combination or construction of Burnham and the secondary references provides the teaching or suggestion of the corner cutter of the invention. Burnham does not teach or suggest a corner cutter having arcuate first and second blade edges, which are arcuate as viewed from the top plan form view of the cutter body and nothing in the secondary references can overcome such a defect. Accordingly, reconsideration and withdrawal of the rejections is respectfully requested.

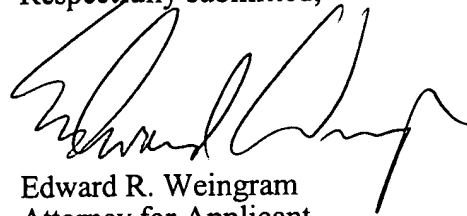
Furthermore, the patentability of the subject matter of dependent claims necessarily must hinge upon the patentability of the independent claim from which it depends. As independent claim 6 is believed to be directed to a novel corner cutter, it is also believed that dependent claims 7-17 are also novel and non-obvious. Accordingly, reconsideration and withdrawal of the present rejections are respectfully requested. Claims 10, 13, 14, and 17 were rejected under 35 U.S.C.103(a) as being unpatentable over Burnham by itself or in view of additional references. These claims ultimately depend from claim 6. Since claim 6 has been amended to overcome rejection based upon Burnham, claims 10, 13, 14, and 17 are accordingly not obvious in view of Burnham.

#### Conclusion

Claim 6 has been modified to more clearly set forth the invention and distinguish it over the prior art. None of the references taken either singularly or in combination show or suggest a device for cutting brittle materials which has opposed arcuately shaped blade edges that have opposing movement between an opened and closed position in which the distance between the opposed sections of the blade edges varies along the blade edges when the blade edges are in a closed position.

In view of the foregoing Amendments and the Remarks in support thereof, it is respectfully submitted that this case is in condition for allowance. Favorable action on the merits, including entry of all requested amendments and allowance of all claims is respectfully solicited.

Respectfully submitted,



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Edward R. Weingram  
Attorney for Applicant  
Registration No. 24,493  
WEINGRAM & ASSOCIATES, P.C.  
P.O. Box 927  
Maywood, NJ 07607  
TEL: (201) 843-6300  
FAX: (201) 843-6495

## **MARKED UP VERSION OF CLAIMS**

Amend Claims 6 and 14 to read:

6. (Twice Amended) A corner cutter comprising:

a cutter body including upper and lower handles having a pivot securing said handles together, said lower handle having an upper blade end extending beyond said pivot and having an arcuate first blade edge secured thereto as viewed from the top plan form view of the cutter body,

said upper handle having a lower blade end extending beyond said pivot and opposing said upper blade end, said lower blade end having an arcuate second blade edge secured thereto, as viewed from the top plan form view of the cutter body,

said handles and blade ends being pivotable about said pivot to provide opposing movement of said first and second blade edges between an open and closed position,

said first and second blade edges being disposed in mutually opposing positions and the space between said first and second blade edges varies along the length of the edges when said first and second cutting edges are in the closed position for cutting sheets of brittle material positioned between said blade edges.

14. (Amended) The device of claim 6 wherein said first and said second blade edges each have two opposing outer portions and an opposing inner portion and the space between [at] one of the two opposing outer portions of said first and said second blade edges is less than the space between the other of said opposing outer portions of said first and said second blade edges.

CLEAN SET OF PENDING CLAIMS, AS AMENDED

6. (Twice Amended) A corner cutter comprising:

a cutter body including upper and lower handles having a pivot securing said handles together, said lower handle having an upper blade end extending beyond said pivot and having an arcuate first blade edge secured thereto as viewed from the top plan form view of the cutter body,

said upper handle having a lower blade end extending beyond said pivot and opposing said upper blade end, said lower blade end having an arcuate second blade edge secured thereto, as viewed from the top plan form view of the cutter body,

said handles and blade ends being pivotable about said pivot to provide opposing movement of said first and second blade edges between an open and closed position,

said first and second blade edges being disposed in mutually opposing positions and the space between said first and second blade edges varies along the length of the edges when said first and second cutting edges are in the closed position for cutting sheets of brittle material positioned between said blade edges.

7. The device of claim 6 wherein said first and said second blade edges each have outer portions and in inner portion and the distance between the opposing outer portions of said first and second blade edges is less than the distance between said inner portions of said first and second blade edges.

8. The device of claim 6 wherein the outer portions of said opposing blade ends are curved for cutting curves into said sheets of brittle material between said edges.

9. The device of claim 6 including a return spring connected between said upper and lower handles.

10. The device of claim 9 including stop means connected between opposite ends of said upper and lower handles for maintaining said handles in a normally open position.

11. The device of claim 6 wherein the opposing blade edges are disposed to be perpendicular to the surfaces of sheets of brittle material there between.

12. The device of claim 11 wherein one of the opposing blade edges has an angled inner surface providing a sharp edge for cutting said brittle material.

13. The device of claim 11 including a guide secured to said lower blade end for positioning said lower blade end on a sheet of brittle material for simplifying the cutting of said sheet.

14. The device of claim 6 wherein said first and said second blade edges each have two opposing outer portions and an opposing inner portion and the space between one of the two opposing outer portions of said first and said second blade edges is less than the space between the other of said opposing outer portions of said first and said second blade edges.

15. The device of claim 6 wherein said first and said second blade edges each contain a portion parallel to the axis of said pivot.

16. The device of claim 6 wherein said arcuate curved first and second blade edges are concave with respect to the axis of said pivot to cut an outer curve.

17. The device of claim 6 wherein said arcuate curved first and second blade edges are convex with respect to the axis of said pivot to cut an inner curve.